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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,895	06/20/2003	Mathias Bieringer	10191/3135	6798

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KENYON & KENYON
One Broadway
New York, NY 10004

EXAMINER

KASENGE, CHARLES R

ART UNIT	PAPER NUMBER
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2121

MAIL DATE	DELIVERY MODE
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03/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/600,895	Applicant(s) BIERINGER, MATHIAS	
	Examiner CHARLES R. KASENGE	Art Unit 2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, filed 1/15/09, with respect to the rejection(s) of claim(s) 1-17 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Launey et al. U.S. Patent 5,086,385.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-10 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Launey et al. U.S. Patent 5,086,385. Regarding claims 1, 14 and 16, Launey discloses a method for controlling the execution of a computer program, having multitasking capability, on a computing element of a controller for at least one of controlling and regulating a system that can take up various possible system states, comprising: subdividing the computer program into a plurality of functionally linked functionalities (col. 28, lines 19-59, tasks); defining possible operating states for the functionalities (col. 28, lines 19-59, subtasks); defining possible system states of the system (col. 28, lines 19-59, states; col. 29, lines 5-13, current state of task); allocating specifiable operating states to the functionalities for each system state (col. 28-29, lines 19-34); ascertaining dependencies of the functionalities on one another, a first functionality

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being dependent upon a second functionality if at least one input variable of the first functionality is ascertained in the second functionality (col. 25-26, lines 45-22); and centrally specifying the operating states required for a certain system state, taking into consideration the ascertained dependencies among the functionalities and further boundary conditions (col. 29, lines 5-34).

Regarding claim 2, Launey discloses the method as recited in claim 1, wherein each of the operating states is defined by an operating state variable which is able to take up various operating state values (col. 28-29, lines 19-34).

Regarding claim 3, Launey discloses the method as recited in claim 2, wherein each of the operating state variables is able to take up operating state values corresponding to "full functionality", "limited functionality" and "no functionality" settings (col. 14, lines 3-12, lighting levels).

Regarding claim 4, Launey discloses the method as recited in claim 1, wherein for taking into consideration the ascertained dependencies among the functionalities, staggering in time a processing of the functionalities which characterize the certain system state in such a way that the second functionality is processed before the first functionality, so as to ascertain the at least one input variable of the first functionality (col. 25-26, lines 45-22).

Regarding claim 5, Launey discloses the method as recited in claim 1, wherein for taking into consideration the ascertained dependencies among the functionalities, the at least one input variable for the first functionality is ascertained in a way other than by processing the second functionality (col. 28, lines 19-59).

Regarding claim 6, Launey discloses the method as recited in claim 5, further

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comprising: ascertaining the at least one input variable for the first functionality by at least one of modeling the input variable from other variables, ascertaining a substitute variable, or ascertaining the input variable with using an alternative algorithm (col. 25-26, lines 45-22).

Regarding claim 7, Launey discloses the method as recited in claim 1, wherein the operating states are specified by the functionalities which characterize a certain system state, as a function of at least one fault appearing in the system (col. 50, lines 52-56).

Regarding claim 8, Launey discloses the method as recited in claim 1, wherein the operating states are specified by the functionalities, which characterize a certain system state, as a function of actual operating states of the functionalities (col. 14, lines 3-12).

Regarding claims 9, Launey discloses the method as recited in claim 1, further comprising: at least one of controlling and regulating a system in a vehicle using the computer program (col. 12, lines 13-17).

Regarding claims 10, Launey disclose the method as recited in claim 9, wherein the vehicle is a motor vehicle (col. 12, lines 13-17).

Regarding claims 12, Launey discloses the method as recited in claim 1, further comprising: at least one of controlling and regulating a system in a building using the computer program (col. 2, lines 42-54).

Regarding claim 13, Launey discloses the method as recited in claim 1, further comprising: controlling or regulating at least one of an alarm system, a heating system, air conditioning system or an access control system in a building using the computer program (col. 2, lines 42-54).

Regarding claim 15, Launey discloses the storage medium as recited in claim 14, wherein

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the set of instructions is stored on one of a read-only memory, a random access memory, or on a flash memory (Fig. 1).

Regarding claim 17, Launey discloses the controller as recited in claim 16, further comprising: means for executing the computer program (Fig. 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Launey as applied to claim 1 above, and further in view of Gudat et al. U.S. Patent 5,646,843.

Regarding claim 11, Launey discloses remotely controlling virtually any electronic subsystem (col. 2, lines 42-54) of a vehicle (col. 12, lines 13-17), but does not expressly disclose controlling a driving dynamics system.

Gudat discloses remotely controlling a driving dynamics system of a vehicle (abstract).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to control the electronic subsystems of a vehicle. One of ordinary skill in the art would have been motivated to do this since Launey teaches the ability to control any electronic subsystem.

Therefore, it would have been obvious to modify Launey with Gudat to obtain the invention as specified in claim 11.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES R. KASENGE whose telephone number is (571)272-3743. The examiner can normally be reached on Monday through Friday, 8:30 - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on 571 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CK
March 24, 2009

/Charles R Kasenge/
Examiner, Art Unit 2121